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PATENTS
Attorney Docket No. STK-6 CPA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Examiner : Gary B. Nickol
Group Art Unit : 1642
Applicants : Ugo Ripamonti, et al.
Application No. : 09/540,466
Confirmation No. : 2489
Filed : March 31, 2000
For : METHODS FOR INDUCING ANGIOGENESIS
USING MORPHOGENIC PROTEINS AND
STIMULATORY FACTORS

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Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REPLY TO RESTRICTION REQUIREMENT

Sir:

This is in reply to the April 2, 2003 Office Action in the above-identified application. Applicants submit concurrently herewith a Petition under 37 C.F.R. § 1.136(a) and the fee required under 37 C.F.R. § 1.17(a)(1) to extend the time for replying to the Office Action for a period of one month up to and including June 2, 2003.

The Restriction

The Examiner has required restriction of the claims of this application under 35 U.S.C. § 121 into one of the following inventions:

Groups 1-17: Claims 21-25 and 29 drawn to a method for inducing angiogenesis in a mammal by administering an effective amount of one morphogenic protein as recited in Claim 23 or 34 wherein the morphogenic protein is a monomeric protein.

Groups 18-23: Claims 21, 26-29 drawn to a method for inducing angiogenesis in a mammal by administering an effective amount of one morphogenic protein as recited in claims 27-28 wherein the morphogenic protein is a dimeric protein.

With respect to Groups 1-17, the Examiner also asserts claim 21 is a linking claim drawn to a method for inducing angiogenesis in a mammal by administering an effective amount of a monomeric morphogenic protein. With respect to Groups 18-23, the Examiner asserts that claim 21 is a linking claim drawn to a method for inducing angiogenesis in a mammal by administering an effective amount of a dimeric protein. The Examiner states that upon allowance of the linking claim, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claim will be entitled to examination in the instant application.

Applicants traverse in part. Applicants respectfully submit that in addition to claim 21 being a linking claim for each of groups 1-17 and 18-23, claim 21 is also a linking claim for the monomeric (Groups 1-17) and dimeric (Groups 18-23) morphogenic proteins. Claim 21 directed to a method for inducing angiogenesis in a mammal by administering a therapeutically effective amount of a morphogenic protein links monomeric and dimeric forms of the morphogenic proteins.

Accordingly, applicants provisionally elect with traverse a method of inducing angigenesis using a dimeric OP-1 as morphogenic protein for initial substantive examination. 37 C.F.R. § 1.143. Applicants will request rejoinder of the Group 1-23 claims with the elected group if and when any of claims 21 and 26-29 are found allowable.

Applicants make this election expressly without waiver of their rights to file for and obtain claims directed to the non-elected and/or canceled subject matter either in divisional or continuing applications claiming priority and benefit from this application under 35 U.S.C. § 120.

Should the Examiner feel that a telephone conference with applicants' representatives would assist

the Examiner, he is invited to telephone the undersigned at any time. Applicants request favorable consideration and early allowance of the pending claims.

Respectfully submitted,



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